

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

vs.

ARCHEGOS CAPITAL MANAGEMENT, LP
and PATRICK HALLIGAN,

Defendants.

1:22-cv-03401 (JPO)

**DECLARATION OF RUSSELL W. JOHNSTON IN SUPPORT OF
DEFENDANT ARCHEGOS CAPITAL MANAGEMENT, LP'S
MOTION TO DISMISS THE COMPLAINT**

RUSSELL W. JOHNSTON hereby declares pursuant to 28 U.S.C. § 1746:

1. I am a Partner with the law firm of King & Spalding LLP, attorneys for Defendant Archegos Capital Management, LP ("ACM") in the above-captioned action, and a member in good standing of the bar of this Court. I respectfully submit this Declaration in support of ACM's motion to dismiss the Complaint (Dkt. #1).

2. Attached as Exhibit 1 is a copy of the January 22, 2013 Order Instituting Administrative Proceedings, Making Findings, And Imposing Remedial Sanctions by the Securities and Exchange Commission ("SEC") in the action captioned, *In the Matter of Sung Kook Hwang*, Release No. 3535, File No. 3-15181 (Sec. & Exch. Comm'n, Jan. 22, 2013).

3. Attached as Exhibit 2 is a copy of the July 29, 2021 Credit Suisse Group Special Committee of the Board of Directors Report on Archegos Capital Management.

4. Attached as Exhibit 3 are excerpts from the Brief of Amici Curiae filed by the

International Swaps and Derivatives Association, Inc. and Securities Industry and Financial Markets Association in the matter captioned, *CSX Corp. v. Children's Inv. Fund Mgmt. (UK) L.L.P.*, 08 Civ. 2764 (LAK), (S.D.N.Y. June 2, 2008).

5. Attached as Exhibit 4 is a copy of excerpts from the November 2007 Consultation Text titled, "Disclosure of Contracts for Difference," made publicly available by the United Kingdom Financial Services Authority.

6. Attached as Exhibit 5 is a copy of a May 24, 2022 *Bloomberg* article titled, "Take the Swaps off the Balance Sheet," by Matt Levine.

7. Attached as Exhibit 6 is a copy of a chart listing the closing prices of the S&P 500 from March 20, 2020 to March 19, 2021.

8. Attached as Exhibit 7 is a copy of a chart listing the closing prices of the Dow Jones Industrial Average from March 20, 2020 to March 19, 2021.

9. Attached as Exhibit 8 are copies of excerpts from the Form ADVs filed by Hudson Bay Capital Management LP, Paloma Partners Management Company, and Samlyn Capital, LLC on March 30, 2022, March 31, 2022, and March 30, 2022, respectively.

10. Attached as Exhibit 9 is a copy of a February 2, 2021 conversation held between William Tomita and an employee of Goldman Sachs on the Bloomberg IB Chat platform, produced by ACM to the CFTC in response to a pre-complaint voluntary information request.

11. Attached as Exhibit 10 is a copy of a February 24, 2021 conversation held between William Tomita and an employee of Goldman Sachs on the Bloomberg IB Chat platform, produced by ACM to the CFTC in response to a pre-complaint voluntary information request.

12. Attached as Exhibit 11 is a copy of a March 24, 2021 *Bloomberg* article titled, “China Considers Creating State-Backed Company to Oversee Tech Data,” by Lulu Yilun Chen.

13. Attached as Exhibit 12 are copies of the reports of proceedings before U.S. Magistrate Judge Jennifer E. Willis reflecting Sung Kook (Bill) Hwang and Patrick Halligan’s not guilty pleas in the action captioned *United States v. Sung Kook (Bill) Hwang and Patrick Halligan*, Case No. 22-cr-240 (S.D.N.Y.).

Dated: July 1, 2022
New York, New York

/s/ Russell W. Johnston
Russell W. Johnston